

ASSEMBLY BILL

No. 870

Introduced by Assembly Member Hertzberg

February 27, 1997

An act to amend Section 368 of, and to add Section 13515 to, the Penal Code, relating to crime prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 870, as introduced, Hertzberg. Elder abuse: law enforcement training.

(1) Existing law provides that any caretaker of an elder or a dependent adult person who violates any provision of law proscribing theft or embezzlement, with respect to the property of that elder or dependent adult, shall be punished as specified based on the value of the money, labor, or property taken.

This bill would apply this prohibition to any person. By expanding the scope of an existing crime, it would impose a state-mandated local program.

(2) Existing law requires various law enforcement officers to meet specified training standards pursuant to courses of training certified by the Peace Officers Standards and Training (POST) program.

This bill would require every city police officer or deputy sheriff at a supervisory level or below to complete an elder abuse training course certified by POST. By imposing additional duties on local agencies, it would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 368 of the Penal Code is
2 amended to read:

3 368. (a) Any person who, under circumstances or
4 conditions likely to produce great bodily harm or death,
5 willfully causes or permits any elder or dependent adult,
6 with knowledge that he or she is an elder or a dependent
7 adult, to suffer, or inflicts thereon unjustifiable physical
8 pain or mental suffering, or having the care or custody of
9 any elder or dependent adult, willfully causes or permits
10 the person or health of the elder or dependent adult to be
11 injured, or willfully causes or permits the elder or
12 dependent adult to be placed in a situation such that his
13 or her person or health is endangered, ~~is punishable~~ *shall*
14 *be punished* by imprisonment in the county jail not
15 exceeding one year, or in the state prison for two, three,
16 or four years.

17 (b) Any person who, under circumstances or
18 conditions other than those likely to produce great bodily
19 harm or death, willfully causes or permits any elder or



1 dependent adult, with knowledge that he or she is an
2 elder or a dependent adult, to suffer, or inflicts thereon
3 unjustifiable physical pain or mental suffering, or having
4 the care or custody of any elder or dependent adult,
5 willfully causes or permits the person or health of the
6 elder or dependent adult to be injured or willfully causes
7 or permits the elder or dependent adult to be placed in
8 a situation such that his or her person or health may be
9 endangered, is guilty of a misdemeanor.

10 ~~(c) Any caretaker of an elder or a dependent adult~~
11 ~~person who violates any provision of law proscribing theft~~
12 ~~or embezzlement, with respect to the property of that~~
13 ~~elder or dependent adult, is punishable shall be punished~~
14 ~~by imprisonment in the county jail not exceeding one~~
15 ~~year, or in the state prison for two, three, or four years~~
16 ~~when the money, labor, or real or personal property taken~~
17 ~~is of a value exceeding four hundred dollars (\$400), and~~
18 ~~by fine not exceeding one thousand dollars (\$1,000) or by~~
19 ~~imprisonment in the county jail not exceeding one year,~~
20 ~~or both, when the money, labor, or real or personal~~
21 ~~property taken is of a value not exceeding four hundred~~
22 ~~dollars (\$400).~~

23 (d) As used in this section, “elder” means any person
24 who is 65 years of age or older.

25 (e) As used in this section, “dependent adult” means
26 any person who is between the ages of 18 and 64, who has
27 physical or mental limitations which restrict his or her
28 ability to carry out normal activities or to protect his or
29 her rights, including, but not limited to, persons who have
30 physical or developmental disabilities or whose physical
31 or mental abilities have diminished because of age.
32 “Dependent adult” includes any person between the
33 ages of 18 and 64 who is admitted as an inpatient to a
34 24-hour health facility, as defined in Sections 1250, 1250.2,
35 and 1250.3 of the Health and Safety Code.

36 ~~(f) As used in this section, “caretaker” means any~~
37 ~~person who has the care, custody, or control of or who~~
38 ~~stands in a position of trust with, an elder or a dependent~~
39 ~~adult.~~

1 SEC. 2. Section 13515 is added to the Penal Code, to
2 read:

3 13515. Every city police officer or deputy sheriff at a
4 supervisory level or below who is assigned field or
5 investigative duties shall complete an elder abuse
6 training course certified by the Commission on Peace
7 Officer Standards and Training by July 1, 1998, or within
8 18 months of assignment to field duties. Completion of the
9 course may be satisfied by telecourse, video training tape,
10 or other instruction. The training shall, at a minimum,
11 address relevant laws, recognition, reporting
12 requirements and procedures, neglect, and fraud. The
13 course may be presented as part of a training program
14 that includes other subjects or courses.

15 SEC. 3. No reimbursement is required by this act
16 pursuant to Section 6 of Article XIII B of the California
17 Constitution for certain costs that may be incurred by a
18 local agency or school district because in that regard this
19 act creates a new crime or infraction, eliminates a crime
20 or infraction, or changes the penalty for a crime or
21 infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime
23 within the meaning of Section 6 of Article XIII B of the
24 California Constitution.

25 However, notwithstanding Section 17610 of the
26 Government Code, if the Commission on State Mandates
27 determines that this act contains other costs mandated by
28 the state, reimbursement to local agencies and school
29 districts for those costs shall be made pursuant to Part 7
30 (commencing with Section 17500) of Division 4 of Title
31 2 of the Government Code. If the statewide cost of the
32 claim for reimbursement does not exceed one million
33 dollars (\$1,000,000), reimbursement shall be made from
34 the State Mandates Claims Fund.

35 Notwithstanding Section 17580 of the Government
36 Code, unless otherwise specified, the provisions of this act
37 shall become operative on the same date that the act
38 takes effect pursuant to the California Constitution.

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